

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AUSTIN EDWARD LIGHTFEATHER,

Plaintiff,

vs.

DIETARY OF THE LANCASTER COUNTY
JAIL, MENTAL HEALTH OF THE
LANCASTER COUNTY JAIL, and THIRD
SHIFT OF THE LANCASTER COUNTY
JAIL,

Defendants.

8:22CV224

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff Austin Edward Lightfeather's, "Waive of Informa Pauperious" [sic], which has been docketed as a Motion for Leave to Proceed in Forma Pauperis ("IFP").¹ [Filing No. 2](#). As stated in the Prison Litigation Reform Act ("PLRA"), a prisoner cannot

bring a civil action . . . or proceeding [IFP] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

[28 U.S.C. §1915\(g\)](#).

¹ Plaintiff's "Waive of Informa Pauperious" [sic] was included as "Page Four" with his Complaint, [Filing No. 1](#), but was docketed separately as an IFP Motion. See [Filing No. 2](#). Both the Complaint and the IFP Motion were not signed upon filing, and, on June 23, 2022, the Clerk of Court directed Plaintiff to "correct the deficiency" (i.e., file a signed Complaint and IFP motion) within 15 days, or the pleadings "may be stricken from the record of this case." Filing Nos. 5 & 6 (text orders). On June 30, 2022, Plaintiff submitted a signed IFP Motion, [Filing No. 2-1 at 1](#), but did not submit a signed copy of the Complaint, [Filing No. 1](#). Plaintiff's signed IFP Motion attached a copy of the Clerk's Text Notice of Deficiency directing Plaintiff to correct the "Complaint" signature deficiency. [Filing No. 2-1 at 2](#). Thus, upon review, it appears Plaintiff intended his signed "Page Four" "Waive of Informa Pauperious" [sic] to be considered as both his signature on the IFP Motion and the Complaint. Accordingly, the court will direct the Clerk of Court to attach the signed IFP Motion, [Filing No. 2-1](#), to the Complaint as satisfaction of the signature deficiency.

The Court has identified the following cases that were brought by Plaintiff and that were dismissed because they were frivolous and/or failed to state a claim upon which relief may be granted: *Lightfeather v. Prey et al*, No. 8:21-cv-00211-RGK-PRSE (D. Neb.) (Filing Nos. 15 & 16, finding Plaintiff's complaint failed to state a claim for relief and dismissing case on April 8, 2022, after Plaintiff failed to amend complaint); *Lightfeather v. Green et al*, No. 8:21-cv-00208-RGK-PRSE (D. Neb.) (Filing Nos. 12 & 14, finding Plaintiff's complaint failed to state a claim for relief and dismissing case on October 12, 2021, after Plaintiff failed to amend complaint); *Lightfeather v. Ricketts et al*, No. 8:21-cv-00165-RGK-PRSE (D. Neb.) (Filing Nos. 12 & 14, finding Plaintiff's complaint failed to state a claim for relief and dismissing case on October 7, 2021, after Plaintiff failed to amend complaint); *Lightfeather v. City of Lincoln*, No. 4:20-cv-03118-RGK-PRSE (D. Neb.) (Filing Nos. 112 & 113, May 24, 2021 Memorandum and Order and Judgment dismissing Plaintiff's second amended complaint for failure to state a claim and for being frivolous); *Lightfeather v. Beatrice Sun Times, et al*, No. 8:21-cv-00114-RGK-PRSE (D. Neb.) (Filing Nos. 14 & 15, May 19, 2021 Memorandum and Order and Judgment dismissing Plaintiff's complaint as frivolous).

On the Court's own motion, Plaintiff is ordered to show cause within 30 days of this Court's Memorandum and Order why these cases should not be considered strikes against him per the terms of the PLRA, and why he is entitled to proceed in forma pauperis pursuant to 28 U.S.C. §1915(g). Alternatively, Plaintiff may pay the Court's \$402.00 filing and administrative fees within 30 days. In the absence of good cause shown, or the payment of the necessary fees, this matter will be dismissed without further notice.

IT IS THEREFORE ORDERED:

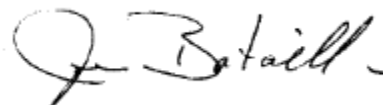
1. Plaintiff has 30 days from the date of this Memorandum and Order to show cause why the cases referenced above should not be considered strikes against him per the terms of the PLRA, and why he is entitled to proceed in forma pauperis pursuant to [28 U.S.C. §1915\(g\)](#). In the alternative, Plaintiff may pay the \$402.00 filing and administrative fees within 30 days. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.

2. The Clerk of Court is directed to set a pro se case management deadline in this matter with the following text: **August 15, 2022**: deadline for Plaintiff to show cause or pay fees.

3. The Clerk of Court is further directed to attach the signed copy of Plaintiff's IFP Motion, [Filing No. 2-1](#), to the Complaint, [Filing No. 1](#), and note in the docket text of [Filing No. 1](#) that the court will consider [Filing No. 2-1](#) as the signature page for the Complaint.

Dated this 14th day of July, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J. Bataillon", with a stylized flourish at the end.

Joseph F. Bataillon
Senior United States District Judge